

Application Serial No. 10/010,798
Amendment dated November 3, 2003
Reply to Office Action dated June 3, 2003

REMARKS/ARGUMENTS

Claims 1, 2, 7, 8, 12, 13, 18, 19, 22, 34, 35, 38, 40 to 43, 45, 48, 54, 56 and 58 to 60 have been amended to define clearly the Applicant's invention. Claims 6, 17, 36, 46, 47, 49 to 53, 55 and 61 to 65 have been cancelled without prejudice or disclaimer. New claims 66 to 70 have been added to define further aspects of the Applicant's invention. Claims 1 to 5, 7 to 16, 18 to 24, 34, 35, 37 to 45, 48, 54, 56 to 60 and 66 to 70 are now pending in the present application and are believed to distinguish patentably over the prior art.

In the Official Action, the Examiner has rejected claims 48 and 61 to 64 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Claim 48 has been amended to make it dependent on claim 45 and therefore, provide proper antecedents for the recited terms. Claims 61 to 64 have been cancelled. Accordingly, Applicant respectfully requests that the Examiner's rejection in this regard be removed.

With respect to prior art, the Examiner has rejected claims 1, 2, 5, 8 to 10, 12, 13, 18 and 19 under 35 U.S.C. §103(a) as being unpatentable over European Patent Office Application No. 0995683 to Tobolka ("Tobolka"). The Examiner is alleging that the Applicant's invention as defined by these claims would be obvious to one of ordinary skill in the art in view of the teachings of this reference. Claims 1, 2, 5, 8 to 13, 16, 18, 19, 22 to 24 and 51 to 65 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Tobolka in view of U.S. Patent No. 4,075,818 to Wright ("Wright"). The Examiner is alleging that the Applicant's invention as defined by these claims would be obvious to one of ordinary skill in the art in view of the combined teachings of these references. Claims 1 to 3, 5, 8 to 10, 12 to 14 and 18 to 20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Tobolka in view of U.S. Patent No. 4,079,570 to Rucker ("Rucker"). The Examiner is alleging that the Applicant's invention as defined by these claims would be obvious to one of ordinary skill in the art in view of the combined teachings of these references. Claim 48 has been rejected under 35 U.S.C. §102(b) as being clearly anticipated by Tobolka or by International PCT Application No. 0995683 to Tobolka ("Tobolka II"). Claims 49 and 50 have been rejected under 35 U.S.C. §102(b) as being clearly anticipated by Wright. No prior art objections have been raised with respect to claims 34 to 47. Applicant thanks the Examiner for indicating allowable subject matter in claims 4, 6, 7, 15, 17 and 21.

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Independent claim 1 has been amended to incorporate allowable subject matter from dependent claim 6 and therefore, is believed to distinguish patentably over the prior art. Since claims 2 to 5 and 7 to 11 are dependent either directly or indirectly on independent claim 1, which is deemed allowable, Applicant respectfully submits that these claims should also be allowed.

Independent claim 12 has been amended to incorporate allowable subject matter from dependent claim 17 and therefore, is believed to distinguish patentably over the prior art. Since claims 13 to 16 and 18 are dependent either directly or indirectly on independent claim 12, which is deemed allowable, Applicant respectfully submits that these claims should also be allowed.

Independent claim 19 has been amended to incorporate allowable subject matter from dependent claim 6 and therefore, is believed to distinguish patentably over the prior art. Since claims 20 to 24 are dependent either directly or indirectly on independent claim 19, which is deemed allowable, Applicant respectfully submits that these claims should also be allowed.

Independent claim 34 defines a heat sealing and cutting mechanism to form a heat seal and a cut across a tube of flexible packaging material. The heat sealing and cutting mechanism includes a set of jaws moveable between an open position where the tube is free and a closed position where the tube is trapped between the jaws. A pair of closely spaced, generally convex heat sealing bands is provided on one of the jaws. The heat sealing bands are energizable to form closely spaced heat seals across the tube when the jaws are in the closed position and the heat sealing bands are energized. A cutting element is also provided on the one jaw and is disposed between the heat sealing bands. The cutting element is energizable to cut the tube when the jaws are in the closed position. A convex backing is provided on the other of the jaws.

Applicant respectfully submits that none of the references cited by the Examiner teaches or suggests the Applicant's invention as defined by independent claim 34. The backing disclosed in each of the cited references is *planar*. In accordance with the present invention, by providing a convex backing, fluid within the tube is effectively directed away from the regions where heat seals are being formed when the jaws are brought into the closed position allowing high integrity heat seals to be created. In view of the above, Applicant respectfully submits that independent claim 34 distinguishes patentably over the

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prior art and should be allowed. Since claims 35 and 37 to 40 are dependent either directly or indirectly on independent claim 34, which is deemed allowable, Applicant respectfully submits that these claims should also be allowed.

Independent claim 41 defines a heat sealing and cutting station including a backing plate that presents a generally convex surface towards the carrier and that has a groove therein aligned with the cutting element. As stated above, the cited references fail to teach or suggest a convex backing. Furthermore, the cited references fail to teach or suggest a groove formed in the backing that is aligned with the cutting element. In view of the above, Applicant respectfully submits that independent claim 41 distinguishes patentably over the prior art and should be allowed. Since claims 42 to 44 are dependent either directly or indirectly on independent claim 41, which is deemed allowable, Applicant respectfully submits that these claims should also be allowed.

Independent claim 45 defines a heat sealing and cutting station including a backing plate that presents a generally convex backing carried by the other of the jaws with the backing having a groove formed therein to accommodate the cutting element when the at least one set of jaws is in the closed position. As stated above, the cited references fail to teach or suggest a convex backing as well as a groove formed in the backing that is aligned with the cutting element. In view of the above, Applicant respectfully submits that independent claim 45 distinguishes patentably over the prior art and should be allowed. Since claim 48 is dependent directly on independent claim 45, which is deemed allowable, Applicant respectfully submits that this claim should also be allowed.

Independent claim 54 has been amended to incorporate allowable subject matter from dependent claim 6 and therefore, is believed to distinguish patentably over the prior art. Since claims 56 to 60 are dependent either directly or indirectly on independent claim 54, which is deemed allowable, Applicant respectfully submits that these claims should also be allowed.

New independent claim 66 defines a heat sealing and cutting mechanism including a backing having a groove formed therein that is aligned with the cutting element to accommodate the cutting element when the support elements are in the closed condition. As stated above, none of the cited references show a backing having a groove to accommodate the cutting element when the jaws are closed. In view of the above, Applicant respectfully submits that independent claim 66 distinguishes patentably over the prior art and should be

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allowed. Since claims 67 to 70 are dependent either directly or indirectly on independent claim 66, which is deemed allowable, Applicant respectfully submits that these claims should also be allowed.

In view of the above, it is believed the application is in order for allowance and action to that end is respectfully requested.

Respectfully submitted,

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November 3, 2003
Date